

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WILLIAM BARLOW.

Plaintiff,

v.

RUST GAME PLACE, LLC. DBA RUST
MEAT MARKET AND GAME
PROCESSING AND RANDY RUST,

Defendants.

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Civil Action No. 20-662

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

For his Original Complaint against Defendants Rust Game Place, LLC and Randy Rust, Plaintiff William Barlow shows the following:

Introduction

1. This is an action for unpaid overtime compensation under the Fair Labor Standards Act (FLSA). Plaintiff William Barlow is a current employee of Defendant Rust Game Place, LLC. Plaintiff worked in excess of 40 hours in many workweeks over the last three years, Plaintiff is owed overtime compensation as well as attendant liquidated damages and attorney fees.

Parties

2. Plaintiff William Barlow is an individual residing in 738 Summerwood, New Braunfels, Texas 78130. He may be served with papers through the undersigned counsel.

3. Defendant Rust Game Place, LLC is a limited liability company organized under the laws of the State of Texas. According to the Texas Secretary of State, Defendant's principal place of business is located at 157 Country Grace South, New Braunfels, Texas 78130. It may be

served with process through its Registered Agent, Kay Rust at 157 Country Grace South, New Braunfels, Texas 78130.

4. Defendant Randy Rust is an individual, and is an owner and member of Defendant Rust Game Place, LLC. He may be served with process at 157 Country Grace South, New Braunfels, Texas 78130.

5. Defendant Randy Rust is responsible for the overall management of Defendant Rust Game Place, LLC. Defendant Randy Rust has authority to hire, fire, and discipline, and in fact, is the person directly responsible for the overtime violations alleged in this lawsuit. As such Defendant Randy Rust is directly jointly and severally liable with Defendant Rust Game Place, LLC for all violations of the FLSA complained of in this lawsuit.

Jurisdiction and Venue

6. The Court possesses personal jurisdiction over Defendant Rust Game Place LLC because Defendant is licensed to do business in Texas and because the Defendants regularly conducts business in Texas. The Court possesses personal jurisdiction over Defendant Randy Rust because Mr. Rust lives and works in Texas and is a citizen of the State of Texas. The Court possesses subject matter jurisdiction over this case because Plaintiff sues under a federal statute, the Fair Labor Standards Act. Venue is proper in the Western District of Texas because the events giving rise to Plaintiff's claims occurred in the Western District. In this regard, at all times relevant to this lawsuit, Plaintiff worked for Defendants within the Western District.

Statement of Facts

7. Defendant operates a meat market and game processing business in the New Braunfels, Texas. Plaintiff is, and has been employed by Defendants, as a butcher for almost three

years. At all times relevant to this lawsuit, Plaintiff has been a non-exempt, non-management employee paid on an hourly basis.

8. In many work weeks over the course of his employment, Plaintiff has worked in excess of 40 hours. This is documented in Plaintiff's pay stubs. However, Defendants have failed to pay Plaintiff an overtime premium for his overtime hours and has instead paid him for the overtime hours at his straight time rate.

Causes of Action: Violations of the Overtime Provisions of the FLSA

9. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 9 supra.

10. At all times relevant to this lawsuit, Defendant Rust Game Place LLC has been an employer within the meaning of the Fair Labor Standards Act, has engaged in interstate commerce, and has had gross annual sales in excess of \$500,000.00. Likewise, under controlling case law, Defendant Randy Rust is an employer because owns and operates Defendant Rust Game Center LLC, because he has the ability to hire, fire, and discipline employees, and because he is directly responsible for the overtime violations alleged in this lawsuit.

11. At all times relevant to this lawsuit, Plaintiff has been an employee of Defendants. Plaintiff has likewise directly engaged in interstate commerce while performing his work on behalf of Defendants.

12. Plaintiff has not been paid an overtime premium in workweeks when he has worked in excess of 40 hours. Plaintiff further contends that he has worked in excess of forty hours in many workweeks over the last three years, and that he is owed the FLSA-mandated overtime premium for all hours worked over 40 in any workweek. Plaintiff also contends that he is owed an equal amount in liquidated damages because Defendants cannot establish a "good faith" defense under 29 U.S.C Section 260. Finally, Plaintiff contends that he is entitled to invoke the FLSA's

three-year statute of limitations because Defendants' violations of the FLSA with respect to Plaintiff were willful.

13. Plaintiff's consent to participate in this FLSA lawsuit is attached hereto.

Jury Trial

14. Plaintiff demands a trial by jury.

Conclusion and Prayer

11. Plaintiff prays that, upon final judgment, he be awarded the following from Defendants, jointly and severally:

- a. Unpaid overtime compensation;
- b. Liquidated damages;
- c. Attorney fees;
- d. Costs of court; and
- e. All other relief to which Plaintiff is entitled.

Respectfully submitted,

/s/ MICHAEL V. GALO, JR.

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